

for toxicological analysis in the case of a fatality.

[54 FR 53259, Dec. 27, 1989, as amended at 62 FR 63467, Dec. 1, 1997]

**§ 219.209 Reports of tests and refusals.**

(a)(1) A railroad that has experienced one or more events for which samples were obtained shall provide prompt telephonic notification summarizing such events. Notification shall immediately be provided to the duty officer at the National Response Center (NRC) at (800) 424-8802 and to the Office of Safety, FRA, at (202) 632-3378.

(2) Each telephonic report shall contain:

- (i) Name of railroad;
- (ii) Name, title and telephone number of person making the report;
- (iii) Time, date and location of the accident/incident;
- (iv) Brief summary of the circumstances of the accident/incident, including basis for testing; and
- (v) Number, names and occupations of employees tested.

(b) If the railroad is unable, as a result of non-cooperation of an employee or for any other reason, to obtain a sample and cause it to be provided to FRA as required by this subpart, the railroad shall make a concise narrative report of the reason for such failure and, if appropriate, any action taken in response to the cause of such failure. This report shall be appended to the report of the accident/incident required to be submitted under part 225 of this subchapter.

(c) If a test required by this section is not administered within four hours following the accident or incident, the railroad shall prepare and maintain on file a record stating the reasons the test was not promptly administered. Records shall be submitted to the Federal Railroad Administration upon request of the Associate Administrator for Safety.

[54 FR 53259, Dec. 27, 1989, as amended at 59 FR 7461, Feb. 15, 1994; 62 FR 63467, Dec. 1, 1997]

**§ 219.211 Analysis and follow-up.**

(a) The laboratory designated in appendix B to this part undertakes prompt analysis of samples provided under this subpart, consistent with the

need to develop all relevant information and produce a complete report. Samples are analyzed for alcohol and controlled substances specified by FRA under protocols specified by FRA, summarized in appendix C, which have been submitted to the Department of Health and Human Services for acceptance. Samples may be analyzed for other impairing substances specified by FRA as necessary to the particular accident investigation.

(b) Results of post-accident toxicological testing under this subpart are reported to the railroad's Medical Review Officer and the employee. The MRO and the railroad shall treat the test results and any information concerning medical use or administration of drugs provided under this subpart in the same confidential manner as if subject to subpart H of this part, except where publicly disclosed by FRA or the National Transportation Safety Board.

(c) With respect to a surviving employee, a test reported as positive for alcohol or a controlled substance by the designated laboratory shall be reviewed by the railroad's Medical Review Officer with respect to any claim of use or administration of medications (consistent with § 219.103 of this part) that could account for the laboratory findings. The Medical Review Officer shall promptly report the results of each review to the Associate Administrator for Safety, FRA, Washington, DC 20590. Such report shall be in writing and shall reference the employing railroad, accident/incident date, and location; and the envelope shall be marked "ADMINISTRATIVELY CONFIDENTIAL: ATTENTION ALCOHOL/DRUG PROGRAM MANAGER." The report shall state whether the MRO reported the test result to the employing railroad as positive or negative and the basis of any determination that analytes detected by the laboratory derived from authorized use (including a statement of the compound prescribed, dosage/frequency, and any restrictions imposed by the authorized medical practitioner). Unless specifically requested by FRA in writing, the Medical Review Officer shall not disclose to FRA the underlying physical condition